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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Heinrich Lang
Serial No.: 10/628,862
Filed: 07/28/2003



For: INTERNALLY MOUNTED
MOVABLE CAMERA FOR VEHICLES

Examiner: Rao, Anad Shashikant
Group No.: 2621

Docket No.: LMX-151 (022946.00242)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

TRANSMITTAL LETTER

Please find the following correspondence items enclosed for filing in the United States Patent and Trademark Office:

1. Response to PTOL-462 of 9/25/07 Amended Appeal Brief;
2. Remarks;
3. Copy of Notification of Non-Compliant Appeal Brief; and
4. Return Receipt Postcard.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as "FIRST CLASS MAIL" with sufficient postage affixed thereto, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 11, 2007.

By:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Heinrich Lang
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For: INTERNALLY MOUNTED,
MOVABLE CAMERA FOR VEHICLES

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Dear Sir:

RESPONSE TO PTOL-462 OF 9/25/2007
AMENDED APPEAL BRIEF

1. *Party of Interest:*

The real party of interest is Lang Mekra North America, LLC

2. *Related Appeals and Interferences:*

There are no other appeals or interferences which affect or will be affected by the Board's decision known to Appellant.

3. *Status of Claims:*

Claims 1-13 were originally filed. In the response of 3/22/2007, claims 1, 6, 9, 10 and 11 are cancelled. New claims 14-16 are presented and claims 2-5, 7, 8, 12 and 13 are amended. Accordingly, claims 2-5, 7, 8 and 12-16 remain. Claims 2-4, 7, 8 and 12-16 stand rejected under 35 USC 103(a). Claim 5 is not rejected and is presumed to be directed to allowable subject matter and would be allowed if written in independent form

to include parent claim 16. The final rejections of claims 2-4, 7, 8 and 12-16 is appealed.

4. *Status of Amendments:*

All amendments are entered.

5. *Summary of the Claimed Subject Matter:*

The instant invention is directed to a movable camera carried by the upper area or top of a cargo containment and is movable between an extended position and a retracted position. See page 1, ¶¶ 1 and 2.

In commercial vehicles, the cargo container can partially block the rear view or line of sight. At times, these vehicles must be precisely driven such as when backing to a loading ramp. The salvation to these problems as solved by the instant invention is to install a camera in the upper rear of the container and transmit the image of the area of restricted vision to the driver. See page 1, ¶ 4 and page 2, ¶¶ 1 and 2.

The camera is mounted within the container in a position to prevent damage by external conditions. This presents a problem with the rear cover or door of the container. Accordingly, accommodations must be made to provide a closable opening in the back cover in the area of the camera and a mounting structure operative to move the camera between in and out positions. See page 2, ¶ 5 and page 3, ¶ 3.

More specifically, the invention includes a commercial vehicle cargo container having a normally covered front and sides with an open rear. A tarpaulin 2a is provided to hang from the top portion of container 2 to hang in a vertical position to cover the rear opening. See page 4, ¶¶ 9 and 10.

The movement apparatus 4 is mounted within the cargo space in an upper rear

area of the cargo area. The camera 3 is mounted on the movement apparatus for longitudinal movement between interior and exterior positions.

A flap 2b is provided in the tarpaulin 2a opposite the camera. The camera is provided with member 5. Movement of the camera to the exterior position causes mechanism 5 to engage the flap and clear an opening for the camera 3 to move to an exterior position. See Figs. 1-3, page 4, ¶ 10 and page 6, ¶ 5.

Another arrangement, shown in Figs. 4 and 5 and described on page 7, paragraphs 1, 2 and 5, provides that the movement apparatus 4 is a rotating drive which pivots camera 3 about an axis from an inside position to an outside position. As the camera rotates, it engages flap 2b and raises the flap providing a clear field.

A slightly altered arrangement is shown in Figs 6-7 and described on page 8, ¶¶ 2-4. In this case, camera 3 is mounted on movement apparatus 4 which rotates the camera between, in and out positions. Apparatus 4 carries camera 3 on a side which protects the camera when in the in position and directs it in a more vertical downward position when rotated into the exterior position.

Primarily, the invention presents the concept that when mounting a camera for assisting in the rear view of a commercial vehicle the camera must be mounted in the upper rear of a cargo container of the vehicle to allow full access to the cargo area and protection of the camera from damage by the cargo. Also, the arrangement includes an opening within the tarpaulin and a flap, which flap is operative to be moved by the motion of the camera when the camera is moved to the external position.

Specifically, turning to independent claim 14, the claim calls for a camera assembly for use with a commercial vehicle having an upstanding cargo container,

which assembly comprises movement apparatus 4 secured with the upper area of the cargo container 2, which mounts a camera 3 within the upper rear area of the container. See Figures 1, 4 and 6 and page 4, lines 16-24, page 7, lines 9-12 and page 8, lines 5-12.

The claim calls for a closure 2a, having a hinged flap 2b secured with the rear of the cargo container 2 and movable between open and closed positions. See Figures 1, 2, 4, 5, 6 and 7 and page 5, lines 14-19, page 7, lines 1-6 and 19-23 and page 8, lines 1-4.

The claim then calls for the movement apparatus 4 to be operative upon activation to move the camera from inside to outside the cargo containment area, the camera 3 during said movement being operative to engage and pivot the hinged flap 2b, forming an opening through said closure and positioning the camera in position to capture a defined field of vision to include a rear portion of the commercial vehicle. See Figures 1-7, page 5, lines 10-15.

Claim 15, which depends from claim 14, further calls for movement apparatus 4 with a rotary drive which moves the camera 3 along an arcuate path. See Figures 4-7, page 7, lines 5, 6 and page 7, lines 8-10.

Claim 8, which depends from claim 14, further calls for the closure to be a tarpaulin 2a. See Figures 1-6, page 4, line 2a.

Independent claim 16 calls for a camera assembly for use with a cargo container 2 of a commercial vehicle 1 comprising movement apparatus 4 secured with an upper rear area of the cargo container 2 mounting a camera 3 within the cargo container. See Figures 1-7, page 5, lines 14-19.

The claim also calls for a closure 21 secured with a rear area of the cargo container to normally extend in a vertical position as shown in Figures 1, 4 and 6. A normally closed opening, in an upper area of the closure, which is axially aligned with the movement apparatus 4 and the camera 3. See Figures 1-7, page 4, lines 26-28, page 5, lines 14-29.

The claim further sets forth function; actuation of said movement apparatus 4 moves said camera 3 through said opening and out of said cargo container into a position to capture a defined field of vision in a rear area behind and adjacent the commercial vehicle. See Figures 1-7, page 5, lines 28, 29 and page 6, lines 1-5.

Claim 3, which depends from claim 16, further calls for movement apparatus 4 to have a rotary drive. See Figures 4-7, page 3, line 5.

6. *Grounds of Rejection to be Reviewed:*

The rejection of claims 2, 3, 7, 12-16 under 35 USC 103(a) as unpatentable over Michimoto (JP 56,099,835) in view of Robison (4,277,804).

Claim 4 stands rejected under 35 USC 103(a) as unpatentable over JP '835 (Michimoto) in view of Robison, and further in view of JP '740 (Hiroyuki).

Claim 8 stands rejected under 35 USC 103(a) as unpatentable over th JP '835 (Michimoto) in view of Robison, and further, in view of Lechner '903.

Claims 2, 3, 7, 12-16 stand rejected under 35 USC 103(a) as unpatentable of JP '835 (Michimoto) in view of Robison '804.

7. *Arguments:*

Both references, the Michimoto JP '835 reference and the Robison reference are concerned with solving the problem solved by the instant invention. Neither

reference mounts the camera in an upper rear area of the cargo container, thereby missing the concept of positioning the camera in a position to not interfere with the cargo being loaded and unloaded and in a position to not be damaged by the loading and unloading of the cargo. Also, by mounting the camera in an elevated position, a more complete view of the blocked or shielded area is possible.

The JP '835 reference discloses a camera 1 and camera mount structure, gears 3 and 4, motor 2 supporting shaft 5, guide rail 6, rod 8, solenoid 7, all of which is mounted in the trunk of an automobile. As is clearly shown, the arrangement is mounted on the floor of the trunk with the camera positioned to move on a plane slightly above the rear bumper. Clearly, the camera and camera mounting apparatus are positioned so as to interfere with and possibly be damaged by the loading and unloading of cargo into and out of the trunk.

In the JP '835 reference, lid 10 is mounted on trunk cover 9 and opens to allow the camera to exit the trunk and closes to protect the camera against outside conditions. Lid 10 is driven between positions by lever 11 which is driven between open and closed positions by solenoid 7. It is unclear just how trunk lid 9 opens as lever 11 and solenoid 7 appear to be mounted in a compartment secured with the floor of the trunk. It would appear that lever 11 would prevent the trunk lid 9 from being raised. In operation, the camera carriage is longitudinally driven by solenoid 7. Motor 2 causes the camera to move from left to right. Drive 7 also drives linkage 11 to raise and lower lid 10.

The patent to Robison is directed to a viewing system for blind areas at the rear of vehicles. The arrangement includes a camera assembly 17 mounted to an inside surface of the rear door 16 at approximately its mid-point. The camera has a viewing

axis 42 shown in Fig. 1 extending from the mid-point of door 16. The camera is stationary within chamber 23 and utilizes mirrors to obtain its field of view. This reference does not teach positioning the camera and camera control in an upper rear area of a cargo compartment.

Turning now to independent claim 16.

Claim 16 stands rejected under 35 USC 103(a) as unpatentable over Michimoto (JP '835) in view of Robison.

Claim 16 contains the following limitations which are not disclosed or implied by JP '835 or Robison.

Claim 16 calls for a camera assembly for use with a cargo assembly of a commercial vehicle including "movement apparatus, secured with an upper rear area of said cargo container, mounting a camera within said cargo container." No reference of the rejection teaches this arrangement. Not the JP '835 reference which teaches mounting the movement apparatus along with the camera on the floor of the trunk of a passenger vehicle. Not the Robison reference which teaches mounting a stationary camera within a container at approximately the mid-point of a container door.

The claim calls for a closure "to normally extend in a generally vertical position" and having "a normally closed opening in an upper area generally axially aligned with said movement apparatus and said camera." Again, no reference of the rejection teaches this structure. The JP '835 reference does not teach a closure which normally extends in a vertical direction as the angle of the majority of the trunk lid extends at best at about 45°. Further, the closure in the JP '835 arrangement is not arranged in an upper area of the compartment but at its lower end.

The Robison reference provides no help satisfying these failings of the JP reference as there is no opening in an upper area axially aligned with movement apparatus.

For the above stated reasons, it is felt that the claim clearly defines over the references of the rejection.

Claims 2 and 3 are rejected under 35 USC 103(a) as unpatentable over JP '835 in view of Robison.

Claim 4 is rejected under 35 USC 103(a) as unpatentable over JP '835 in view of Robison, and further, in view of JP '740.

Claim 5 is not rejected, but depends from rejected claim 16 and is presumed allowable if written in independent form.

Claims 2-4 all depend from claim 16 and are believed to be allowable for the reasons set forth re: claim 16.

Turning now to independent claim 14.

Claim 14 stands rejected under 35 USC 103(a) as unpatentable over JP '835 in view of Robison.

Claim 14 contains the following limitations which are not taught by the references of the rejection.

Claim 14 calls for a camera assembly for use with a commercial vehicle having an upstanding cargo container having an open rear and "movement apparatus, secured with an upper rear area of said cargo container, mounting a camera within said upper rear area." This limitation was discussed re: claim 16.

Also, "a closure, having a hinged flap, secured with said rear of said cargo

container," and "movement apparatus operative upon actuation to move said camera from inside to outside said cargo container, said camera, during movement, being operative to engage and pivot said hinged flap forming an opening through said closure." In Robison, there is no camera movement. In the JP reference, direct linkage drives the flap between open and closed positions. The camera does not engage or cause to pivot the hinged flap.

The claim calls for the movement apparatus to be operative to move the camera from inside to outside the cargo container, said camera during said movement being operative to engage and pivot said hinged flap forming an opening through said closure. No reference teaches this structure. JP '835 teaches a drive linkage. Robison does not move the camera.

The claim further calls for the camera to capture a field of vision to include a rear portion of the commercial vehicle and an area adjacent thereto. Neither JP '835 nor Robison teach so positioning the camera.

Claims 7, 12, 13 and 15 are rejected under 35 USC 103(a) as unpatentable over JP '835 in view of Robison.

Claim 8 is rejected under 35 USC 103(a) as unpatentable over JP '835 in view of Robison, and further, in view of Lechner.

Claims 7, 8, 12, 13 and 15 all depend from claim 14 and are believed to be allowable for the reasons set forth.

Claim 15 includes the further limitation "said movement apparatus has a rotary drive which moves said camera along an arcuate path." In Robison, the camera is stationary. In JP '835, the movement is linear.

For the above stated reasons, it is believed that claims 2-5, 7, 8 and 12-16 clearly define over the references of the rejections. Accordingly, it is respectfully requested that the rejections be reversed and the claims found to be allowable.

8. *Appendix of Claims:*

Claim 1 (cancel):

Claim 2: An assembly in accord with claim 16 wherein the movement apparatus has a linear drive.

Claim 3: An assembly in accord with claim 16 wherein the movement apparatus has a rotary drive.

Claim 4: An assembly in accord with claim 16, wherein the movement apparatus is energized by means of a shifting of the commercial vehicle into a reverse gear.

Claim 5: An assembly in accord with claim 16, wherein the movement apparatus can be manually energized and deenergized by a driver of the commercial vehicle.

Claim 6 (cancel)

Claim 7: An assembly according to claim 14 wherein said closure is rigid.

Claim 8: An assembly according to claim 14 wherein the closure comprises a tarpaulin.

Claim 9-11 (cancel)

Claim 12: An assembly according to claim 14 wherein said closure is rotatable about an axis which is essentially normal to the longitudinal axis of the commercial vehicle.

Claim 13: The assembly according to claim 14 wherein said closure is self closing.

Claim 14: A camera assembly for use with a commercial vehicle having an

upstanding cargo container having an open rear comprising:

movement apparatus, secured with an upper rear area of said cargo container, mounting a camera within said upper rear area of said cargo container;

a closure, having a hinged flap, secured with said rear of said cargo container, said flap being movable between open and closed positions; wherein,

said movement apparatus is operative upon actuation to move said camera from inside to outside said cargo container, said camera during said movement being operative to engage and pivot said hinged flap forming an opening through said closure positioning said camera positioned to capture a defined field of vision to include a rear portion of said commercial vehicle and an area adjacent thereto.

Claim 15: The assembly according to claim 14 wherein said movement apparatus has a rotary drive and moves said camera along an arcuate path radially spaced from its axis of rotation.

Claim 16: A camera assembly for use with a cargo container of a commercial vehicle comprising:

movement apparatus, secured with an upper rear area of said cargo container, mounting a camera within said cargo container;

a closure secured with a rear area of said cargo container to normally extend in a generally vertical position, said closure having a normally closed opening in an upper area generally axially aligned with said movement apparatus and said camera; wherein,

actuation of said movement apparatus moves said camera through said opening and out of said cargo container into a position to capture a defined field of

vision in a rear area behind and adjacent said commercial vehicle.

9. *Evidence Appendix*

(None)

10. *Related Proceedings Appendix*

(None)

Favorable consideration is respectfully requested.

Respectfully submitted,



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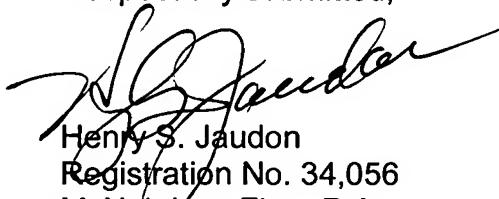
Dear Sir:

REMARKS

Response to the Notification of Non-Compliant Appeal Brief of 9/25/2007.

Due to number of areas requiring amendment, the Brief in its entirety is here presented for clarity.

Respectfully submitted,


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,862	07/28/2003	Heinrich Lang	LMX-151 22946.242	3857
7590	09/25/2007		EXAMINER	

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McNair Law Firm, P.A.

DATE MAILED: 09/25/2007

ART UNIT	PAPER NUMBER

Please find below and/or attached an Office communication concerning this application or proceeding.

McNair Docketing
Date Due: 10-25-2007
Initials: JGB

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/628,862	Applicant(s) LANG ET AL.
	Examiner Andy Rao	Art Unit 2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 30 August 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

2. Status of Claims: this section should list the status of all the claims involved in the application. This section should also explicitly identify the claims involved in the appeal.

4. Summary of Claimed Subject Matter: The independent claims 14 and 16 should be clearly provided and the claims should be explicitly mentioned or referred to in the Summary section.

6. Arguments: This section should include a separate heading for each grounds of rejection listed in section VI: Grounds of Rejection to be Reviewed on Appeal section, but may include headings for claims argued separately. The brief should also include the statutes and references with respect to the grounds of rejection presented.



Leneetha L. Dyar
Patent Appeal Center Specialist